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09/469,982	12/21/1999	REUVEN MOSKOVICH	082771.P262	5627

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WILLIAM W SCHAAL  
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP  
12400 WILSHIRE BOULEVARD 7TH FLOOR  
LOS ANGELES, CA 90025

EXAMINER

NGUYEN, PHUONGCHAU BA

ART UNIT

PAPER NUMBER

2665

DATE MAILED: 03/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/469,982

Applicant(s)

MOSKOVICH ET AL.

Examiner

Phuongchau Ba Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 December 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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*Claim Rejections – 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1–3, 9, 11–13 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang (6,504,849).

**Regarding claims 1, 9, and 11:**

Wang discloses a method for a network device (hub, fig.1b) to negotiate a common mode of communication between two nodes (nodes 101a & 101b), comprising:

a) establishing a first communication path (104a) between the network device (hub) and a first node (node 101a);

b) establishing a second communication path (104b) between the network device (hub) and a second node (node 101b);

c) establishing a third communication path (108) through the network device (hub), the third communication path (108) coupling the first and second communication paths to provide a common mode of operation between the first node (104a) and the second node (104b) {col.2, lines 6-16, 33-43}.

**Regarding claims 2, 12:**

Wang further discloses wherein the network device is a probe and establishing the third communication path through the network device

establishes a point-to-point link between the first and the second nodes {col.2, lines 13-15}.

Regarding claims 3, 13:

Wang further discloses wherein establishing the first communication path (104a, fig.1b) between the network device and the first node comprises negotiating a mode of operation with the first node {col.2, lines 32-43}.

Regarding claims 4, 14:

Wang further discloses wherein negotiating a mode of operation with the first node comprises negotiating a speed of a transmission of data over the first communication path between the network device and the first node {col.3, lines 6-24}.

Regarding claims 5, 15:

Wang further discloses wherein negotiating a mode of operation with the first node comprises negotiating one of half duplex and full duplex

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communication over the first communication path between the network device and the first node {col.4, lines 16–23; col.2, 47–58}.

Regarding claims 6, 16:

Wang further discloses wherein establishing a second communication path between the network device and the second node comprises negotiating a mode of operation with the second node {col.2, lines 32–43}.

Regarding claim 10:

Wang discloses a network device inserted between point-to-point network connected nodes (101a–101d) to support an operational mode of communication in common between the nodes, comprising:

means for enabling a first transmit data path connection (104a) between a first port (107a) of the network device and the first node (101a) {fig.1b};

means for enabling a second transmit data path connection (104b) between a second port (107b) of the network device and the second node (101b) {fig.1b};

means for enabling a first receive data path connection between a third port (108) of the network device and the first node {fig.1 b};

means for enabling a second receive data path connection (104b) between a fourth port (107d) of the network device and the second node (101b) {fig.1 b};

means for enabling a connection (108) between a first repeater (103) and the first (107a) and fourth (107d) ports, and a connection (108) between a second repeater (103) and the second (107b) and third (107c) ports to support full-duplex communication {col.3, lines 6-26 wherein, e.g., the highest mode of 101a (first node) and 101b (second node) is 100Base-Tx full-duplex (emphasis added)} between the first (101a) and second (101b) nodes {col.1, line 67 to col.2, lines 16, 39-43, 59-66}

***Claim Rejections – 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7-8 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang in view of Scott (5,953,340).

Regarding claims 7, 17:

Wang further discloses wherein establishing a third communication path through the network device, the third communication path coupling the first and second communication paths to provide a common mode of operation between the first node and the second node {col.2, lines 6-16, 33-43}{col.2, lines 6-16, 33-43}.

Wang does not disclose the claimed features.

However, in the same field of endeavor, Scott comprises comparing the mode of operation with the first node and the mode of operation with the second node {col.5, lines 22-24}; and selecting one of multiple communication paths through the network device as the third communication path that provides a common mode of operation between the first node and the second



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node {col.5, lines 22–24}. Therefore, it would have been obvious to an artisan to apply Scott's teaching to Wang's system and the motivation being to easily manage, upgraded, and reconfigured without a need to modify the coupling at ports {col.5, lines 31–33}.

**Regarding claims 8, 18:**

Wang does not explicitly disclose the claimed features. However, in the same field of endeavor, Scott also discloses wherein the common mode of operation between the first node and the second node is the best mode of operation available between the first node and the second node {col.5, lines 22–24}. Therefore, it would have been obvious to an artisan to apply Scott's teaching to Wang's system and the motivation being to automatically place the data device (node) in the proper repeater domain and to easily manage, upgrade, and reconfigure without a need to modify the couplings at ports {col.5, lines 31–33}.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuongchau Ba Nguyen whose telephone number is 703-305-0093. The examiner can normally be reached on Monday-Friday 10:00AM-3:00PM.

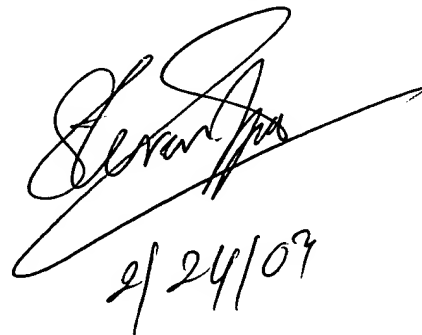
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 703-308-6602. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.



Phuongchau Ba Nguyen  
Examiner  
Art Unit 2665

February 24, 2003

  
2/24/03